

HOUSE BILL REPORT

SHB 1730

As Passed Legislature

Title: An act relating to the office of regulatory assistance.

Brief Description: Regarding the office of regulatory assistance.

Sponsors: House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Linville, Kretz, Ericks, Hunt, Armstrong and Short).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/13/09, 2/17/09 [DPS].

Floor Activity

Passed House: 2/27/09, 94-0.

Passed Senate: 4/3/09, 43-2.

Passed Legislature.

Brief Summary of Substitute Bill

- Provides additional specificity for services provided by the Office of Regulatory Assistance and clarifies expectations for permitting agencies and project proponents seeking assistance with the permitting process.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hunt, Chair; Appleton, Vice Chair; Armstrong, Ranking Minority Member; Alexander, Flannigan, Hurst and Miloscia.

Staff: Pam Madson (786-7111)

Background:

The Office of Regulatory Assistance (ORA) provides environmental permitting assistance in navigating the permit process and provides assistance to small businesses by helping identify licensing and permitting requirements and providing other business assistance. The ORA also works to improve the regulatory process.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under statute, the ORA is administered by the Office of the Governor but some staff is located in the Department of Ecology (DOE) and the Department of Information Services, both in Olympia and in regional offices around the state. The ORA office is staffed through interagency agreements with the other agencies and the Office of Financial Management.

The ORA provides services to its clients through a help desk that answers questions about permitting and state regulations. Regional staff facilitates, coordinates, and resolves conflicts that arise during the permitting process. The ORA acts as an informal coordinating agency for the permitting process. The ORA staff assists in the process but does not participate in permit decisions made by the permitting agencies.

The ORA may provide scoping services to project proponents at their request and may enter into cost-reimbursement agreements. These agreements provide for recovery of reasonable costs from the project proponent for the ORA and the permitting agencies. Reasonable costs do not cover hiring temporary employees.

In 2007 the ORA was subject to a sunset review by the Joint Legislative Audit and Review Committee (JLARC). The ORA was reauthorized and a new sunset date was established for 2011. The JLARC recommended that the ORA improve the tracking of its activities.

Summary of Substitute Bill:

The ORA provides accountability, timeliness, and predictability for businesses, the public, and government agencies involved in the permitting process. The ORA is to provide direction and practical resources for improving the regulatory process. Those involved in projects requiring permits should have access to information on turnaround times for permit decisions based on the permitting experience with like projects, on information required to make a permitting decision, and on the frequency of requests for additional or different information.

The Director of the ORA (Director) is appointed by the Governor and may employ staff directly or through contracting with another state agency to carry out its duties.

Services Provided to Project Proponents.

Services provided by the ORA are defined more specifically to reflect current practice.

Services include:

- acting as the central point of contact for project proponents and providing general coordination services,
- verifying that the project proponent has all information needed for required permits;
- assisting to resolve conflicts or inconsistencies in permit requirements and conditions;
- monitoring adherence to agreed schedules; and
- helping local jurisdictions comply with local development permitting by providing best practices and facilitating early involvement of state agencies.

The ORA must provide reports to the Legislature by September 1, 2009, and biennially thereafter on the office's performance and on improvements that can be made to the overall system.

Project Scoping.

Project proponents may request a project scoping that identifies issues and information needed for the project from proponents and agencies. Scoping includes a clear understanding of process, timing, and permit sequencing. The ORA determines the level of scoping based on complexity of the project and experience of those involved.

Fully Coordinated Permit Process.

A fully coordinated permit process is an approach to a project based on a written agreement between the project proponent, the ORA, and the participating agencies. The project may be designated as a fully coordinated permit process if the proponent enters into a cost reimbursement agreement, or the project is an industrial project of statewide significance, and the Director determines that the ORA and the permitting agencies have the staff and resources to provide a fully coordinated process. A project may be designated a fully coordinated project if it is an industrial project of statewide significance or the Director determines that it qualifies based on certain criteria.

The ORA serves as the central point of contact for the participants in the permitting of the project and provides coordination and facilitation services. The ORA must contact local, federal, or tribal jurisdictions that have permit requirements for a project and invite their participation in the coordinated process. Within 30 days of the designation of a project as a fully coordinated project, the ORA will convene a work plan meeting to coordinate the permitting schedule and set timelines and expectations. A work plan meeting includes discussion of costs and fee arrangements.

Cost-Reimbursement Agreements.

A cost-reimbursement agreement involves the project proponent, the ORA, and the permitting agencies. A cost-reimbursement agreement must identify with as much specificity as possible the tasks of each agency and the maximum costs for work conducted under the agreement. It must include a schedule stating the estimated time for initial review, an estimated number of revision cycles, an estimate of billable hours and the rate-per-hour. The ORA, the DOE, the Department of Natural Resources, the Department of Health, the Department of Fish and Wildlife, and local air pollution control authorities may hire temporary employees and outside consultants whose costs are covered under an agreement to ensure that the agency's capacity to process other permits is maintained.

The ORA statute is not to be construed to limit or abridge the powers and duties of a participating permit agency, and may not substitute its judgment for that of the agency on non-procedural matters.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Office of Regulatory Assistance has evolved over time starting with the permit assistance center in the DOE. The hope is that the full implementation of this bill will meet the one-stop-shop, and the coordination and identification of duplication, overlap and gaps in our regulatory process that it was first intended to do. This is an important statement for the Legislature to make. It formalizes and commits to permitting efficiencies that have been made over the years. This approach is the best way to get projects "shovel ready" at this time. It includes the elements that everybody wants: cooperation, efficiency, effectiveness, and no loss in environmental protection.

(Opposed) None.

Persons Testifying: Representative Linville, prime sponsor; Faith Lumsden, Governor's Office of Regulatory Assistance; and Rick Slunaker, Associated General Contractors.

Persons Signed In To Testify But Not Testifying: None.